

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 3:05-CR-112
	)	(VARLAN/SHIRLEY)
MELVIN DAVIS,	)	
	)	
Defendant.	)	

**ORDER**

On April 5, 2004, AUSA Cook filed a Motion To Amend Order [Doc. 82] seeking partial reconsideration of the undersigned's Memorandum and Order [Doc. 77] filed on March 22, 2006. Specifically, AUSA Cook requests that the Court remove certain language relating to him not filing a written response prior to the March 16, 2006 hearing. Initially, the Court notes that its Order [Doc. 77] accurately reflects the response it received from counsel when questioned about the government's reason for not filing a written response to Defendant's motions. The Court has never questioned AUSA Cook's work ethic or diligence or professionalism. To the contrary, it was, in part, the Court's recognition of such that prompted the Court's comments. Nonetheless, the Court finds counsel's now proffered reasons for not filing a written response to be both a valid explanation and a valid excuse for not filing a written response. Thus, counsel's motion [**Doc. 82**] is hereby **GRANTED** and the following language, which appears in the first full paragraph of page 3 of the opinion, is hereby vacated and struck from the opinion:

(1) “Inexplicably,” which is the first word of the first full paragraph of page 3, is vacated and struck from the opinion. However, the remainder of that first sentence, “the government filed no written response to either motion,” shall not be vacated and stricken;

(2) “In light of the fact that (1) the defendant filed this motion on March 10, 2006, (2) Judge Varlan conducted an expedited telephone conference on March 11, 2006, (3) an expedited hearing was held with the undersigned on March 13, 2006, discussing these matters and then (4) given the seriousness of the allegations, including but not limited to, the request for sanctions against him personally, the Court finds AUSA Cook’s lack of response at best inexplicable, if not inexcusable”; and

(3) “When questioned about this in Court at the hearing on March 16, 2006, AUSA Cook indicated that he had been too busy to file a response.”

**IT IS SO ORDERED.**

ENTER:

s/ C. Clifford Shirley, Jr.  
United States Magistrate Judge